

# Grove Farm Properties, Inc.

ORIGINAL

December 17, 1997

Ms. Esther Ueda  
Executive Officer  
Land Use Commission  
State of Hawaii  
Office of Planning  
Department of Business, Economic Development and Tourism  
P.O. Box 2359  
Honolulu, HI 96804-2359

1997 DEC 22 A 10:10  
LAND USE COMMISSION  
STATE OF HAWAII

Dear Ms. Ueda:

**Subject: 1997 Annual Report for LUC Docket No. A89-636 (Increment II)  
Grove Farm Properties, Inc.  
Lihue/Puhi, Kauai, Hawaii**

In compliance with Condition No. 13 of the referenced Land Use Commission's Decision and Order dated December 20, 1995, we submit one original and fifteen copies of this annual report, due on the anniversary date of the project's approval.

Following is a review of the conditions, with conditions noted in bold type and responses beneath.

1. In connection with any application for zoning application for any portion of the Increment II lands, **Petitioner shall prepare a report to the appropriate agency addressing the following areas of concern:**
  - a. **The availability of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, road, refuse collection and disposal, police, and fire protection, the adequacy thereof, and an assessment as to whether the anticipated density and uses to which the Increment II lands will be put would unreasonably burden State or County agencies; and how the Petitioner intends to aid in the resolution of any identified inadequate facilities or services;**
  - b. **A detailed drainage analysis of the Increment II lands, including an assessment of the downstream impacts which would result upon approval of the Petitioner's application and the mitigative measures proposed with respect to all such impacts;**
  - c. **A description and analysis of how the Petitioner proposes to provide its requested development with sewage and wastewater treatment and disposal;**
  - d. **A description of the Petitioner's proposed development schedule of all the land uses proposed and phasing development, which development schedule shall also include and address development of the Project's interior roadway system.**

A subsidiary of



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Condition 1.a.

1. Schools - After discussions with the Department of Education, a 10-acre site for the new intermediate school had been selected and incorporated into the plan. A minimum 5-acre park was planned immediately adjacent to the school site. Subsequently, as one of the conditions of approval for our Increment II Zoning (Ord. PM-325-96 condition #3), the area for the school site was increased up to 14.5 acres and park site increased to 7 acres. Tentative subdivision approval for the school/park site was received from the County Planning Department on June 12, 1997. Final area for the school site is 14.276 acres. Grove Farm has reached agreement with the State on the acquisition of the additional 4.276 acres and is currently working on satisfying all subdivision conditions so that Final Approval can be granted as planned for in early 1998.
2. Sewers - The County has approved our private sewerage concept. The State Department of Health has approved our Wastewater Treatment Plant (WWTP) design. The first increment of the plant, having a capacity of one MGD, has been constructed and is in operation. This capacity far exceeds the current influent of about 250,000 gallons per day. The plant currently services the following areas of the Lihue/Puhi Master Plan: Puako subdivision, Kukui Grove Shopping Center Expansion Area, Hokulei Estates and Halelani Villages. Other non-Project areas being served by the plant include Kukui Grove Shopping Center, Kukui Grove Village, Kukui Grove Village West and Puhi Industrial Park. Another non-project area, Ulu Ko subdivision, will be connected to the WWTP in the near future as a sewer pump station is scheduled for completion in early 1998. The preliminary infrastructure (basins and conduit) for the remaining phases of the WWTP have been constructed. Further improvements, including lining of the treatment basins, installation of aeration equipment, grating and clarifiers, will be constructed as necessary to meet future demands.
3. Parks - A total of 7.0 acres had been designated for County park, including the 5.0 acres mentioned in 1 above, and 2.0 acres within the affordable housing project. As noted in #1 above, the total requirement was amended to 9.0 acres since the 5.0-acre site adjacent to the school site was increased to 7.0 acres. This may continue to be adjusted to meet requirements, based on the County's Park Ordinance and actual uses put in place.
4. Water - Our Water Master Plan was approved by the County on 5/4/92; the First Amendment to the Water Master Plan was approved on 7/16/93. We continue engineering design and construction for water sources. Two water wells have been developed in conjunction with the Project. One well has been certified by the County of Kauai Department of Water for final yield and is now on line. We are currently in the process of dedicating the facility to the County. The other well, after being further deepened from its original depth, is demonstrating a lower than expected yield. We are currently evaluating options for this well. In addition, two (2) one-million gallon water tanks and associated transmission lines to connect the facilities to the County water system have been constructed and dedicated to the County.
5. Drainage - Please see Condition 1.b. discussion below.
6. Roads - We continue with engineering design for roadways. Construction of Pikake Street, and Nuhou Road Phase I have been completed, along with all of the Puako subdivision. Design and construction plans for other areas will be undertaken as market demands dictate development of future subdivisions. Design improvements to Nuhou Road, together with intersection improvements at Kaumualii Highway in the vicinity of the new school, are expected to be approved by year's

end, with construction to begin in 1998. These improvements are necessary for school opening, scheduled for the fall of 2000. The planning is being coordinated with the State Highways Division and the County Department of Public Works.

7. Refuse Collection/Disposal - We have fulfilled this requirement of the County of Kauai regarding our participation in solid waste disposal, by paying the County \$717,600.39 for our share of the construction costs of the Lihue Refuse Transfer Station.
8. Police/Fire - No special requirements or conditions have been imposed; the project is included in the County's future growth projections.

Condition 1.b.

Drainage - The overall drainage strategy agreed to with the Department of Public Works is to control storm water within the project by way of detention basins, primarily contained within the golf course area. Our drainage master plan has been completed and was submitted for County review on 4/9/92. The County approved the plan on 6/4/92. Individual project drainage reports, which support the principles of the overall drainage master plan, continue to be prepared, reviewed and approved by the County as development progresses throughout the Lihue/Puhi Project. In addition, the County has required that should there be changes to the development plan, that modifications to the drainage master plan be submitted for their approval.

Condition 1.c.

Wastewater - We received approval from the State Health Department and County to construct a wastewater treatment plant (WWTP) on a 13.8 acre parcel. The area is somewhat larger than originally anticipated because the consultants have recommended a lagoon system and the larger site has sufficient area to accommodate some non-project flows, as requested by the County. The system is designed and sized to handle the entire project incrementally. Treated effluent will be recycled to irrigate the golf course and agricultural lands. The wastewater treatment facility project was approved by the County Planning Commission on 5/23/91 under Special Permit SP-91-9, Use Permit U-91-25 and Class IV Zoning Permit Z-IV-91-33. A project-wide sewerage master plan was submitted to the County on 5/7/92. As stated above, the first increment of the WWTP is complete and is in operation.

The eastern portion of the WWTP site was not originally included in the "Urban" State Land Use District, although it was approved under the referenced permits noted above. In an effort to make the County Zoning, General Plan and State "Urban" Land Use districts reflect actual or approved uses, Grove Farm submitted a "Housekeeping" application to the County. This application changed, in part, the State Land Use designation of 10.18 acres of the eastern portion of the WWTP from "Agricultural" to "Urban", County General Plan from "Open" to "Urban Mixed Use", and County Zoning from "Agriculture" to "Open". The Kauai County Planning Commission approved this Housekeeping application on 2/22/96, followed by Kauai County Council approval on 6/10/96. The Mayor signed the bill for Ordinance Nos. PM-328-97, PM-329-97 and PM-330-97 on 6/13/96, approving the Housekeeping amendments.

The contract for the Ulu Ko subdivision sewer pump station, part of the overall wastewater master plan, has been awarded. Work should commence very shortly, after arrival of materials.

Condition 1.d.

Development Schedule - The development schedule and phasing plan were transmitted to you as an enclosure to our letter of 10/9/90. Since that transmittal a major downturn in the local economy, primarily due to Hurricane Iniki, has affected the original development timetable. In addition, because of the above, the company found it necessary to restructure its loan commitments with its major creditor. The dates on the schedule should therefore be adjusted, the extent of which, however, will depend on how quickly the market rebounds. It is Grove Farm's intent to closely develop future phases of our project according to market demands. In this way upfront carrying costs can be minimized, with assurances of immediate recouping of these investments. At this time, as previously described, Grove Farm is proceeding with the subdivision for the school and park site and construction of infrastructure improvements servicing these sites. We are also in the process of dedicating to the County various roadway lots which were created in conjunction with previous phases of the project. These include the Pikake Street segment between Kalepa and Nuhou Streets, Nuhou Street from Pikake Street to Puako subdivision and the Puako interior roadways.

**2. The affordable housing requirement shall be satisfied as follows:**

**a. Petitioner shall provide housing opportunities for low, low-moderate and moderate income Hawaii residents by offering for sale at least thirty percent (30%) of the units at prices which families with an income range of 80 to 120 percent of Kauai County's median income can afford and thirty percent (30%) of the units which families with an income range of 120 to 140 percent of Kauai County's median income can afford. This condition may be fulfilled through projects, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State, or other appropriate governmental agency.**

**This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation, through the construction of rental units to be made available at rents which families in the specified income ranges can afford.**

**b. The affordable housing requirements may also be satisfied in a manner that meets with the approval of the County of Kauai and the State Housing Finance and Development Corporation. Said requirements shall take into consideration affordable on-site (with the subject petition area) or off-site housing units or cash payments that satisfy the then current housing needs, or other necessary or desirable community facilities.**

Based on a project density of 1,690 units, affordable housing requirements total 60 percent, or 1,014 units. Grove Farm has entered into an agreement with Schuler Homes, Inc. to assist us in meeting the above requirements for providing affordable housing. The Schuler projects consist of single and multi-family dwellings. The Hokulei Estates project consists of 209 single family units targeted at the 120 to 140 percent group, all of which have been sold. For this, Grove Farm received a total of 422.77 credits towards fulfilling its affordable housing requirements. Halelani Villages is a phased 504-unit multi-family project which is targeted to the 80 to 120 percent group. (Please note that County approvals and project fine-tuning have resulted in numbers slightly different from those discussed in earlier annual reports). As of this writing, 230 units, representing 252.72 credits, have been sold in Halelani Villages. By way of a letter dated November 22, 1994 from HFDC to Grove Farm

(copy to Land Use Commission), HFDC confirmed the methodology by which we calculated the above affordable housing credits. Thus, to date, Grove Farm has earned a total of 675.49 of the required 1,014 affordable housing credits.

By way of PM-306-95, enacted on 03/24/95, an amendment was made to allow the 20 self-help units required in PM-206-90 to be built by Schuler and sold to the below 80 percent target group. This requirement has been fulfilled and the credits included in the above figures.

Additional multi-family projects to complete our requirements will be constructed based on market demand and infrastructure installation. At this time, approvals have also been received for a 132-unit single family detached cluster housing project in the Puhi area which may be used to satisfy part of the Project's affordable housing requirements. On 11/25/94, the State Land Use District Boundary, County General Plan and Zoning amendments (Ordinance Nos. PM-301-94, PM-302-94 & PM-303-94, respectively) for this project were signed by the Mayor. The Project Development Use Permit, U-95-44 and Class IV Zoning Permit, Z-IV-95-50, were approved by the Planning Commission on 08/10/95 and Tentative Subdivision approval was granted by the Planning Commission on 11/09/95. Preliminary construction plans have been developed, and the developer is currently working towards obtaining final subdivision approval.

3. **Petitioner shall coordinate with the State of Hawaii and/or County of Kauai, as appropriate, to ensure that drainage, as well as other infrastructural and service systems, are compatible and developed in a timely fashion to prevent degradation of groundwater and coastal ecosystems. Such infrastructure shall be funded by the Petitioner.**

We are implementing our drainage master plan in phases with the approval of the County of Kauai. Individual project drainage reports, which are in concert with the overall drainage master plan, are submitted for the County's review and approval prior to commencement of construction and/or final subdivision approval. Thereafter, project specific County-issued grading permits ensure compliance.

4. **Petitioner shall participate in or otherwise provide all additional planning studies related to the Project as required by the State Department of Transportation (DOT). Petitioner shall also participate in the funding and construction of on-site and off-site transportation improvements associated with the proposed development and in designs and schedules required, accepted and coordinated with the DOT. Petitioner shall also provide appropriate dedication of land for the widening of Kaumualii Highway fronting the proposed development and funding for project-related signalization and intersection improvements as required by the DOT.**

Grove Farm funded a right-of-way study for the entire Kaumualii Highway frontage of the Project (and beyond) and is working with the DOT and Kauai Community College on its implementation. The study was submitted to DOT on 2/1/91, which has approved the concept.. We have completed the required intersection improvements, including signalization, at the junction of Puhi Road and Kaumualii Highway. The school/park subdivision, for which we recently received Tentative Approval, contains a request from DOT Highways Division to Grove Farm for dedication of a strip of land for widening of Kaumualii Highway fronting the Project area. Grove Farm is agreeable to this dedication.

Another condition of the tentative subdivision approval is for Grove Farm to coordinate highway improvements with the State Highways Division as well as fund improvements at the new Nuhou/Kaumualii intersection, and Grove Farm will comply with this condition.

5. **Petitioner shall fund and develop, as required by the County of Kauai and/or State, as appropriate, the necessary measures required to obtain adequate supplies of water. Petitioner shall also fund and develop as necessary water storage and distribution systems for the proposed development. Petitioner shall obtain such permits as may be required by the State of Hawaii relating to Petitioner's development.**

We shall comply with this condition. See response 1.a.4. above.

6. **Petitioner shall comply with the requirements of the County of Kauai and the Department of Health of the State of Hawaii to expand existing on-site and off-site wastewater collection, treatment, and disposal infrastructure facilities and shall include the proposed project as part of the Petitioner's master plan for a wastewater system.**

See response to condition 1.c. above.

7. **Petitioner shall pay its pro rata share for expansion of educational facilities by way of dedicating a site for such activities at a location within the Project area and containing an area to be mutually agreed upon by the State Department of Education, but no more than 10 acres, provided the State Department of Education elects to obtain such a site prior to the zoning of the Increment II lands.**

See response 1.a.1. above.

8. **Petitioner shall provide a detailed preservation plan for the two (2) identified historical sites to be prepared and submitted for review and approval by the State's Historic Sites Section and the County of Kauai's Historic Preservation Commission. These agencies shall also verify the successful execution of this plan. This plan must be executed prior to construction. Should any new historical sites be identified during project construction Petitioner shall provide a preservation or data recovery plan as required by the DLNR.**

**Should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the project's development, Petitioner shall immediately stop work and contact the State Historic Sites Section.**

Preservation plans have been prepared for both sites. The plan for Halehaka Cemetery, dated October 1991, was approved by DLNR per their letter of 3/2/92. The plan for the Manager's House was submitted 7/23/91. DLNR commented on 9/9/91 and revisions were incorporated into a revised plan, which was approved on 8/28/92. Renovation and expansion work on the Manager's residence has been discussed with DLNR's State Historic Preservation Division. Specific plans will be submitted when complete, the timetable to be determined by market-driven development schedules.

9. **Petitioner shall provide notification to all prospective occupants of the Increment II**



**lands of the potential odor, noise, and dust pollution resulting from surrounding Agricultural District lands, and that the Hawaii Right-To-Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farming activities may be deemed a nuisance.**

All occupants are notified of the potential odor, noise and dust pollution by way of disclosure and covenant statements prior to sale. This notification is also included in the deed of all lots sold in the Project.

- 10. Petitioner shall implement appropriate mitigation measures, as recommended by the County of Kauai to limit air and water soil erosion during construction phases which could potentially impact coastal areas.**

During construction activities, we will implement and adhere to all mitigation measures as recommended by the County of Kauai. Certain grading permits have been issued by the County, which include air and water erosion mitigative measures. In addition, an overall drainage master plan for the entire Project was approved by the County on June 4, 1992, which includes mitigative measures such as retention and detention basins to prevent possible soil erosion from detrimentally impacting to coastal areas. As the project proceeds, individual drainage studies and grading permits may be required when more detailed plans are developed for individual projects, usually at the time of subdivision. These individual studies and grading plans must show that the specific phase of development contemplated is in concert with the overall drainage master plan, and these plans are reviewed and approved by the County.

- 11. Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter the ownership interest in the Increment II lands prior to the development of the Increment II lands; provided, however, that entering into a joint venture for the development of portions of the affordable housing projects shall not require prior notice to the Land Use Commission.**

The Land Use Commission will be given notice of any intention to alter ownership interest in the zoned property prior to development. On 5/3/90 we notified you by letter of our intent to sell a portion of the Project to James Schuler & Associates (not Schuler Homes, Inc.) for affordable housing development in accordance with the condition of approval. Grove Farm has recently agreed with the State of Hawaii on the terms of sale of an additional 4.276 acres to be incorporated into the new school site. Conveyance of this area and the original 10.00 acres dedicated is expected in the first quarter of 1998. The Land Use Commission will be notified of other similar sales as they occur.

- 12. The Commission may fully or partially release these conditions as to all or any portion of the Increment II lands upon timely motion, and upon the provision of adequate assurances of satisfaction of these conditions by the Petitioner.**

No response required.

- 13. Petitioner shall provide annual reports to the Land Use Commission, The Office of State Planning and the County of Kauai Planning Department in connection with the status of the project and Petitioner's progress in complying with the conditions**

**imposed. The annual report shall be in a format as prescribed by the Executive Officer of the Land Use Commission.**

Petitioner shall comply with this requirement.

- 14. Petitioner shall develop the Increment II lands in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Increment II lands.**

Petitioner has been and will continue to substantially comply with representations made to the Land Use Commission in development of the property. If substantial changes are contemplated we will consult with and receive necessary approvals from the Land Use Commission and the appropriate government agencies prior to implementation.

- 15. Petitioner shall file an amendment to its Declaration of Land Use Commission Conditions (filed June 14, 1990 with the Bureau of Conveyances as Document No. 90-088395) with the Bureau of Conveyances or Land Court of the State of Hawaii, as applicable. Said amendment shall reflect the 4.5 acres reclassified by the Decision and Order filed on June 9, 1994 and specify that said acreage shall also be subject to the conditions stated in the Commission's Decision and Order filed on June 30, 1989 in this docket.**

This condition has been satisfied. The First Amendment to the Declaration of Land Use Commission Conditions was recorded with the Land Court of the State of Hawaii on October 5, 1994 as Document No. 2185539. A recorded copy was forwarded to the Land Use Commission by letter dated October 14, 1994.

- 16. Petitioner shall fund and install the necessary number of emergency sirens (including infrastructure) within Increments I or II, to the satisfaction of the State Department of Defense.**

Petitioner shall comply with this condition.

- 17. Petitioner shall cooperate with the Department of Education and Department of Accounting and General Services, Public Works Division, to provide timely infrastructure improvements for the opening of Kauai Intermediate School now scheduled for September 1998.**

See response to items 1.a.1 and 6 above.

- 18. Petitioner shall cooperate with the Commission on Water Resource Management and the U.S. Fish and Wildlife Service for the designation of a Puali Stream buffer area.**

Preliminary discussions have been held with government agencies. These will be further pursued with the CWRM and USFWS so that a buffer area can be established.

- 19. Petitioner shall consult with the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers to determine whether the petition area contains any wetland, and, if necessary, implement mitigation measures to the satisfaction of the U.S. Fish and Wildlife Service and the U.S. Army Corps of engineers.**



See response to 18 above.

- 20. Petitioner shall file a Declaration of Conditions with the Bureau of Conveyances or Land Court of the State of Hawaii, as applicable, reflecting that the approximately 103.570 acres reclassified by this Decision and Order are subject to the foregoing conditions, pursuant to section 15-15-92, Hawaii Administrative Rules.**

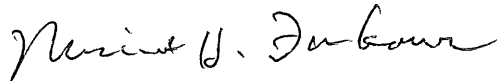
This condition has been satisfied. The Second Amendment to the Declaration was filed as Document No. 2302461 with the Bureau of Conveyances on April 17, 1996. A certified copy was forwarded to the Land Use Commission by letter dated April 24, 1996.

We trust that the foregoing adequately satisfies Condition no. 13. If there are any questions please feel free to call me at (808) 245-3678.

For future annual reports we request that we be able to combine annual reports for Increments I and II into one report since both are under Docket No. A89-636. This annual report would be submitted prior to or on the anniversary date for Increment I, which is June 30.

Sincerely,

GROVE FARM PROPERTIES, INC.

A handwritten signature in cursive script, appearing to read "Michael H. Furukawa".

Michael H. Furukawa  
Vice President & Project Manager

cc: State Office of Planning  
Kauai County Planning Department